

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN RE: AMWEST SURETY)
INSURANCE COMPANY,)
in Liquidation)

4:06CV3041

L. TIM WAGNER, DIRECTOR)
OF INSURANCE OF THE STATE)
OF NEBRASKA, AS LIQUIDATOR)
OF AMWEST SURETY)
INSURANCE COMPANY,)

Plaintiff,)

vs.)

**MEMORANDUM
AND ORDER**

NATIONAL UNION FIRE)
INSURANCE COMPANY OF)
PITTSBURGH, PA, UNITED)
NATIONAL INSURANCE)
COMPANY, GENERAL AGENTS)
INSURANCE COMPANY OF)
AMERICA, INC., STEVEN R.)
KAY, GUY A. MAIN, ARTHUR F.)
MELTON, DOUGLAS J.)
PATERSON, CHARLES L.)
SCHULTZ, JEFFREY A. SHONKA,)
MARY SCHEINER, JOHN E.)
SAVAGE, AND MYRNA A.)
SAVAGE AND JOHN E. SAVAGE,)
AS CO-PERSONAL)
REPRESENTATIVES OF THE)
ESTATE OF RICHARD H.)
SAVAGE, DECEASED,)

Defendants.)

Defendants National Union Fire Insurance Company of Pittsburgh, PA, United National Insurance Company, and General Agents Insurance Company of America, Inc., (“the insurer defendants”) have filed an appeal (filing 47) from Magistrate Judge Piester’s order (filing 45) denying their request to realign various defendants as plaintiffs. The insurer defendants have also filed an objection (filing 47) to Judge Piester’s recommendation that Plaintiff’s motion for remand (filing 24) be granted.

Upon careful review of the insurer defendants’ appeal pursuant to 28 U.S.C. § 636(b)(1)(A), Fed. R. Civ. P. 72(a), and NECivR 72.2, I find that Judge Piester’s order denying their request to realign various defendants as plaintiffs is not clearly erroneous or contrary to law. Thus, the appeal will be denied and the order will be sustained. Further, I have conducted a de novo review of Judge Piester’s recommendation pursuant to 28 U.S.C. § 636(b)(1) and NECivR 72.3. Inasmuch as Judge Piester has fully, carefully, and correctly found the facts and applied the law, the recommendation that Plaintiff’s motion for remand should be granted will be adopted.

Accordingly,

IT IS ORDERED:

1. The appeal filed by defendants National Union Fire Insurance Company of Pittsburgh, PA, United National Insurance Company, and General Agents Insurance Company of America, Inc., (filing 47) is denied;
2. The Magistrate Judge’s order (filing 45) denying the request of defendants National Union Fire Insurance Company of Pittsburgh, PA, United National Insurance Company, and General Agents Insurance Company of America, Inc., to realign various defendants as plaintiffs shall not be disturbed and is sustained;

3. The Magistrate Judge's recommendation (filing 45) that the plaintiff's motion for remand (filing 24) be granted is adopted;
4. The objections (filing 47) filed by defendants National Union Fire Insurance Company of Pittsburgh, PA, United National Insurance Company, and General Agents Insurance Company of America, Inc., to Judge Piester's recommendation are denied;
5. The plaintiff's motion for remand (filing 24) is granted, and this matter is remanded to the District Court of Lancaster County, Nebraska;
6. The Clerk of the United States District Court for the District of Nebraska shall mail a certified copy of this order to the Clerk of the District Court of Lancaster County, Nebraska, and may take any other action necessary to effectuate the remand; and
7. Judgment shall be entered by separate document.

October 12, 2006.

BY THE COURT:
s/ Richard G. Kopf
United States District Judge